

REMARKS

Claims 44-47 and 51-86 of the present application are pending. Claims 59, 70-75, 78-80 and 86 were withdrawn from consideration. Claims 44-47, 51-56, 60-68, 76, 77, 81-85 have been rejected. Claim 69 has been allowed. Claims 44, 69, 76, 77 and 81 have been amended and no new matter has been added. Claims 51-53 have been canceled without prejudice to resubmitting the claims or claims of similar scope in a continuation application. New claims 89-100 have been presented and no new matter has been added. For the reasons set forth below, the Applicant submits that all pending claims are in condition for allowance and allowance of the application is respectfully requested.

In the specification, paragraphs [0002], [0008], and [0052] have been amended to correct minor typographical errors. No new matter has been added.

Paragraphs [0009], [0048], and [0049] have been amended to include subject matter that had been incorporated by reference when the application was filed. The incorporated subject matter is from U.S. Patent Application No. 09/804,935, entitled "Hydrogels That Undergo Volumetric Expansion In Response To Changes In Their Environment And Their Methods Of Manufacture And Use", filed on 3/13/01. The language added to the specification is substantially the same as that set forth in the incorporated patent application, with deletion of some inapplicable words where indicated. No new matter has been added. The amended subject matter is directed to a stimulus-expandable hydrogel that can be used as the reactive material disclosed in the present application.

Rejections under 35 USC section 102

Claims 44-47, 51-56, 60-62, 64-68, 76, 77, and 81-84 have been rejected under 35 USC § 102(e) as being anticipated by US Patent 6,613,074 to Mitelberg et al. Applicant respectfully traverses the rejection.

Claims 44, 76, 77 and 81 have been amended and no new matter has been added. Claims 51-53 have been canceled without prejudice to resubmitting the claims or claims of similar scope in a continuation application.

Mitelberg et al. discloses a an endovascular aneurysm embolization device. The device is a “generally cylindrical structure with a substantial portion of the cylinder removed, so as to form a collapsible cylindrical scaffold with stabilizing members.” See column 4, lines 42-46 of Mitelberg et al. In one disclosed embodiment, the device includes a cover attached to the framework of the occluding member. The cover collapses with the device and should be constructed of an elastic material. See column 5, lines 20-31. Among the disclosed materials are “silicone, polyethers, polyurethanes, polyamides, hydrogels such as polyvinyl alcohol or polyvinyl pyrrolidone, and other polymers suitable for implantable use.” See column 5, lines 32-35.

Independent claims 44, 76, 77, and 81 of the present invention recite at least one expandable stent or support device having a substantially cylindrical body member located between a first and second end, said cylindrical body member further having at least one circumferential element between said first and said second end defining an internal lumen in communication with said first and second ends, wherein blood is capable of flowing through said internal lumen and flowing radially through said fenestrations into the aneurysm. The embolization device of Mitelberg et al. is fabricated in such a was as to remove “a substantial portion of the cylinder.” Thus, the device of Mitelberg et al. is not substantially cylindrical. Furthermore, the present invention comprises at least one circumferential element between the first and second ends of the cylindrical body member, The Mitelberg et al. device, in contrast, is designed to have stabilizing members at its ends, but not to have any intervening structure along its length which constitutes a circumferential element. Mitelberg et al. actually teaches away from the present invention by making a device which has a substantial portion of the cylindrical structure removed. Thus, Mitelberg et al. does not teach or suggest all of the elements of independent claims 44, 76, 77 and 81 and these claims are all patentable over Mitelberg et al. Likewise, dependent claims 45-47, 54-56, 60-68, 82-85 and 87-88 are patentable over Mitelberg et al.

Rejections under 35 USC section 103

Claim 63 has been rejected under 35 USC § 103(a) as being unpatentable over Mitelberg et al. Applicant respectfully traverses the rejection.

As stated above, Mitelberg et al. does not teach or suggest a substantially cylindrical body member having at least one circumferential element between a first and a second end. Thus, for the same reasons as outlined above, claim 63 is patentably distinct over Mitelberg et al.

Claim 85 has been rejected under 35 USC § 103(a) as being unpatentable over Mitelberg et al. in view of Publication No. 2002 to Marotta. Applicant respectfully traverses the rejection.

As stated above, Mitelberg et al. does not teach or suggest the elements of independent claim 81. Thus, it likewise does not teach or suggest the elements of dependent claim 85. The Examiner states that Marotta teaches that it is well known to use either self-expanding materials or balloons to expand a prosthesis. However, Marotta does not teach or suggest a substantially cylindrical body member having at least one circumferential element between a first and a second end. Thus, for the same reasons as outlined above, claim 85 is patentably distinct over Mitelberg et al. or Marotta, either alone or in combination.

The Examiner has stated that claim 69 is allowed. The applicant respectfully thanks the Examiner for same. The applicant has amended claim 69 to correct a misspelled word. Applicant asserts that the scope of the claim has not been narrowed by this amendment.

New claims 87 and 88 have been added to specify the type of expandable stent and no new matter has been added. These claims are dependent from claim 44 and are thus patentable over the cited references.

New claims 89-100 recite an expandable stent or support device having fenestrations and a stimulus-expandable hydrogel selectively applied to not all of the fenestrations. Applicant asserts that these claims are patentably distinct over any of the

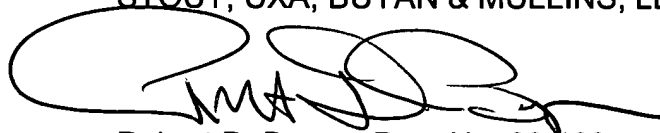
cited references. These claims all recite a stimulus-expandable hydrogel. The specification teaches that a stimulus-expandable hydrogel includes a hydrogel that undergoes controlled volumetric expansion in response to changes in the environment, such as changes in pH or temperature. None of the cited references teaches or suggests the use of a stimulus-expandable hydrogel. Mitelberg et al. teaches the use of a hydrogel, such as polyvinyl alcohol or polyvinyl pyrrolidone, to be used as the elastic cover on the endovascular aneurysm embolization device disclosed therein. However, neither polyvinyl alcohol nor polyvinyl pyrrolidone is a stimulus-expandable hydrogel. Thus, Mitelberg et al. does not teach or suggest the invention of claims 89-100.

In view of the foregoing, Applicant believes that pending claims 44-47, 54-56, 60-69, 76, 77, 81-85, and 87-100 to be in condition for allowance. Reconsideration and early allowance are respectfully and sincerely solicited.

If it is felt for any reason that direct communication with applicants' attorney would serve to advance prosecution of this case to finality, the Examiner is invited to call the undersigned attorney at the below listed telephone number.

Respectfully submitted,
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I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Mail Stop Amendment, Commissioner of Patents, P. O. Box 1450, Alexandria, VA 22313-1450 on April 18, 2005.

Dated: April 18, 2005

By: 
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